

**ASSEMBLY BILL**

**No. 989**

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**Introduced by Assembly Member Block**

February 27, 2009

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An act to amend Section 789 of the Insurance Code, relating to senior insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 989, as introduced, Block. Senior insurance: actions against insurers.

Existing law generally regulates insurance transactions with persons 65 years of age and older. Under existing law, the Insurance Commissioner has the administrative authority to bring actions against insurers who violate those provisions and the Attorney General, district attorney, and city attorney have the authority to bring actions for injunctive relief, damages, and penalties, as specified, against insurers who violate those provisions.

This bill would state that any person who is harmed as a result of a violation of those provisions may bring a civil action for compensatory damages and any other remedies otherwise provided by law.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 789 of the Insurance Code is amended
- 2 to read:
- 3 789. (a) The commissioner shall have the administrative
- 4 authority to assess penalties against insurers, brokers, agents, and

1 other entities engaged in the transaction of insurance or any other  
2 person or entity for violations of this article.

3 (b) Upon a showing of a violation of this article in any civil  
4 action, a court may also assess the penalties prescribed in this  
5 chapter.

6 (c) Whenever the commissioner has reasonable cause to believe  
7 or determines after a public hearing that any insurer, agent, broker,  
8 or other person or entity engaged in the transaction of insurance,  
9 has violated this article the commissioner shall make and serve  
10 upon the insurer, broker, agent, or other person or entity a notice  
11 of hearing. The notice shall state the commissioner's intent to  
12 assess the administrative penalties, the time and place of the  
13 hearing, and the conduct, condition or ground upon which the  
14 commissioner is holding the hearing, and assessing the penalties.  
15 The hearing shall occur within 30 days after the notice is served.  
16 Within 30 days after the hearing the commissioner shall issue an  
17 order specifying the amount of the penalties to be paid. The  
18 penalties resulting from the hearing shall be paid to the Insurance  
19 Fund.

20 (d) The powers vested in the commissioner by this section shall  
21 be in addition to any and all powers and remedies vested in the  
22 commissioner by law.

23 (e) Actions for injunctive relief, penalties specified in Section  
24 789.3, damages, restitution, and all other remedies in law, may be  
25 brought in superior court by the Attorney General, district attorney,  
26 or city attorney on behalf of the people of California. *Any person*  
27 *who is harmed as a result of a violation of this article may bring*  
28 *a civil action for compensatory damages and any other remedies*  
29 *otherwise provided by law.* The court shall award reasonable  
30 attorney's fees and court costs to the prevailing plaintiff who  
31 establishes a violation of this article.